

CAUSE NO. 24-11-44035-MCVAJA

CLAUDIA WHITE,  
*Petitioner,*

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IN THE DISTRICT COURT OF

v.

365<sup>th</sup> JUDICIAL DISTRICT

JAIME IRACHETA,  
*Respondent.*

MAVERICK COUNTY, TEXAS

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MAVERICK COUNTY ATTORNEY JAIME IRACHETA'S  
PLEA TO THE JURISDICTION/MOTION TO DISMISS

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**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW MAVERICK COUNTY ATTORNEY JAIME IRACHETA and files this Plea to the Jurisdiction/Motion to Dismiss in response to *Petitioner's Petition for Removal of Jaime Iracheta as Maverick County Attorney*. The Court lacks subject matter jurisdiction over Petitioner's claims and should dismiss Petitioner's lawsuit in its entirety, and for such Respondent would respectfully show the Court as follows:

**I. Background**

1. On Friday, November 15, 2024, Petitioner, Claudia White ("Petitioner") tendered her two-week notice from her job as a receptionist for the Maverick County Attorney's Office.
2. On Monday, November 18, 2024, it was discovered that Petitioner had been overpaid in excess of \$16,000.00 of taxpayer funds. County Attorney Iracheta confronted Petitioner about the overpayment and told Petitioner that she would have to pay the money back to the County.
3. Petitioner was then officially terminated. See Termination of Employment letter attached as Exhibit "A." In this letter, County Attorney Iracheta informed Petitioner that she must pay the money back to the County:

Please note that you are still pending proper arrangements with the Auditor and Treasurer's Office regarding the salary overpayment. It is imperative that you address this matter promptly to avoid any further complications.

4. In an apparent effort to avoid prosecution for Theft by Public Servant (a felony under Texas Penal Code Sec. 31.03(f)), Petitioner filed this lawsuit the next day, relying on Section 87.013(a)(2) of the Texas Local Government Code, seeking to remove County Attorney Iracheta from office.

5. County Attorney Iracheta files this Plea to the Jurisdiction/Motion to Dismiss because Petitioner seeks to misuse this particular statute to avoid criminal prosecution. Petitioner does not make a claim that amounts to "official misconduct," and the Court lacks jurisdiction to remove County Attorney Iracheta for allegations of misconduct that occurred prior to his re-election to office on November 5, 2024.

6. County Attorney Iracheta denies the factual allegations made by Petitioner.

## II. Arguments & Authorities

### Texas Local Government Code Section 87.013(a)(2).

7. Petitioner relies on Section 87,013(a)(2) of the Texas Local Government Code which states:

(a) An officer may be removed for:

- (1) incompetency;
- (2) **official misconduct**; or
- (3) intoxication on or off duty caused by drinking an alcoholic beverage.

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

Tex. Loc. Gov't Code § 87.013. The statute has a specific definition of "Official misconduct":

(3) "Official misconduct" means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of

the law. The term includes:

- (A) an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law;
- (B) a prosecuting attorney's adoption or enforcement of a policy of refusing to prosecute a class or type of criminal offense under state law or instructing law enforcement to refuse to arrest individuals suspected of committing a class or type of offense under state law, except a policy adopted:
  - (i) in compliance with state law or an injunction, judgment, or other court order;
  - (ii) in response to a reasonable evidentiary impediment to prosecution; or
  - (iii) to provide for diversion or similar conditional dismissals of cases when permissible under state law; or
- (C) permitting an attorney who is employed by or otherwise under the direction or control of the prosecuting attorney to refuse to prosecute a class or type of criminal offense under state law or instruct law enforcement to refuse to arrest individuals suspected of committing a class or type of offense under state law for any reason other than a reason described by Paragraph (B)(i), (ii), or (iii).

Tex. Loc. Gov't Code § 87.011. Courts interpreting §87.013 also define official misconduct narrowly:

Section 87.013 of the Texas Local Government Code sets forth the exclusive grounds for removal of a public officer, which include (1) incompetency, and (2) official misconduct. Incompetency is defined as gross ignorance of official duties, gross carelessness in the discharge of those duties, or unfitness or inability to discharge those duties due to a serious physical or mental defect. Official misconduct means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or execution of the law. It includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law. TEX. LOCAL GOV'T CODE ANN. § 87.011(2), (3) (Vernon 1988) (emphasis added). A trial court can remove an elected officer only for one of the causes enumerated in section 87.013. *State of Texas ex rel. Eidson v. Edwards*, 793 S.W.2d 1 (Tex.Crim.App.1990). **Furthermore, an elected officer can be removed for official misconduct only if he violates a specific statutory duty that amounts to unlawful conduct.** *State ex rel. Edwards v. Reyna*, 160 Tex. 404, 333 S.W.2d 832 (1960).

*Stern v. State ex rel. Ansel*, 869 S.W.2d 614, 619 (Tex. App.-Houston [14<sup>th</sup> Dist.] 1994, writ

denied)(emphasis added). The Texas Supreme Court long ago pointed out that allegations of official misconduct are different from allegations of misconduct generally.

Now, is it true that it is official misconduct for one acting as county attorney to shoot a pistol at a man, when not in the discharge of the duties of his office? Is it true that a county attorney is guilty of official misconduct in asking a tax collector not to prosecute him and his partner, as liquor dealers, for not paying their license tax?

They may come under some of the meanings above given of misconduct, as “offense,” “misbehavior,” “wrong conduct,” and the like, but hardly official misconduct, or misconduct having relation to the duties of his office of prosecuting attorney for the State and county.

*Trigg v. State*, 49 Tex. 645, 678 (1878); see also, *State ex rel. Eidson v. Edwards*, 793 S.W.2d 1, 7 (Tex. Crim. App. 1990)( “Removing” a county official from office is a term of art, and this drastic action is limited to the three narrow situations involving a county official's incompetence, official misconduct or intoxication. V.T.C.A., Local Gov't.Code Sec. 87.018(a)”(Judge Berchelmann, concurring).

8. Moreover, a county official can only be removed from office after a jury trial.

The District Judge may not remove the official merely by his order, as was done in the instant case; a trial by jury must be held before removal. V.T.C.A., Local Gov't.Code Sec. 87.018(a). Where power is granted by statute or constitution to remove a public officer for certain specified causes, the power of removal is limited to the causes specified. *Ridgeway v. City of Fort Worth*, 243 S.W. 740 (Tex.Civ.App.—Ft. Worth 1922, writ dism'd.). We therefore conclude that a trial court can remove a District Attorney only for one of the three causes enumerated in Sec. 87.013 and only after the trial by jury mandated in Sec. 87.018(a).4 Therefore, it is more than evident that when the trial court judge disqualified the Taylor County Criminal District Attorney from prosecuting this case, he did so without authority or jurisdiction.

*State ex rel. Eidson v. Edwards*, 793 S.W.2d 1, 5 (Tex. Crim. App. 1990).

**Petitioner fails to allege official misconduct.**

9. Petitioner makes false allegations that County Attorney Iracheta made sexual advances toward Petitioner and forced her to conduct several favors for him. See *Petition*, ¶5.0. However,

even if these allegations were true, they are not allegations involving “intentional, unlawful behavior relating to official duties.”

10. Petitioner also makes false allegations that County Attorney Iracheta spoke to Petitioner in an unprofessional manner. *See Petition*, ¶5.1. Even if these allegations were true, they are also not allegations involving “intentional, unlawful behavior relating to official duties.”

11. *Petitioner’s Petition for Removal of Jaime Iracheta as Maverick County Attorney* does not allege that County Attorney Iracheta committed any “intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or execution of the law” or that he “intentional[ly] or corrupt[ly] fail[ed], refus[ed], or neglect[ed] . . .to perform a duty imposed on [County Attorney Iracheta] by law.”

12. Likewise, the *Affidavit of Claudia White* does not allege that County Attorney Iracheta violated any such statutory duty. At best, Petitioner alleges two instances of sexual intercourse and four instances of sexual touching. She intersperses these instances with descriptions of sexual advances made by Jaime Iracheta. Petitioner also alleges that each time Petitioner rebuffed his advances, County Attorney Iracheta took “no” for an answer.

13. Petitioner never suffered demotion, termination, or loss of privileges during her employment. While Petitioner stated that she felt she was “forced to conduct several favors, that she felt “uncomfortable;” and that she felt she could not do anything about the alleged inappropriate behavior because Respondent was her boss, Petitioner equally admits she continued working for Respondent from April 11, 2023 through January of 2024.<sup>1</sup>

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<sup>1</sup> Petitioner does not adequately plead the time and place of the occurrences. The statute requires:

“The petition must set forth the grounds alleged for the removal of the officer in plain and intelligible language and must cite the time and place of the occurrence of each act alleged as a ground for removal with as much certainty as the nature of the case permits.”

Tex. Local Gov’t Code § 87.015(c).

14. The *Affidavit of Claudia White* even alleges that Petitioner returned to work for the County Attorney on May 28, 2024 until November 15, 2024 when she tendered her two-week notice.

15. Petitioner's allegations simply do not set forth a prima facie case of "official misconduct" that would permit the Court to remove County Attorney him from office. Therefore, the Court should dismiss the Petition with prejudice against refiling.

**The Court may not remove County Attorney Iracheta for acts which are alleged to have taken place before his re-election.**

16. On November 5, 2024, County Attorney Iracheta was re-elected to his office by the voters of Maverick County.

17. Texas Local Government Code specifically prohibits removal for acts committed prior to election to office.

**§ 87.001. No Removal for Prior Action**

An officer may not be removed under this chapter for an act the officer committed before election to office.

Tex. Loc. Gov't Code § 87.001.

18. According to the *Affidavit of Claudia White*, all of Petitioner's allegations of sexual advances, contact, and unprofessional speech occurred prior to November 5, 2024.


19. Section 87.001 applies to acts that were committed prior to re-election as well as to a newly elected official. *See State ex rel. Russell v. Knorpp*, 575 S.W.2d 401, 405 (Tex. Civ. App.--Amarillo 1978, writ refused NRE)(finding that "the statute bars removal of [County Attorney] Knorpp after his re-election for alleged acts of official misconduct committed before his re-election.").

'The phrase 'prior to his election to office' would, and is intended to apply to a re-election as well as election in the first instance, since the re-election of the same officer is in legal effect the same as an original election. As the Constitution does not provide for continuity of terms of office, each 'term of office' legally becomes

Respectfully submitted,

BOJORQUEZ LAW FIRM, PC  
11675 Jollyville Road, Suite 300  
Austin, Texas 78759  
(512) 250-0411  
(512) 250-0749  
scott@texasmunicipallawyers.com

By:



SCOTT M. TSCHIRHART  
State Bar No. 24013655

*Attorneys for Respondent  
Jaime Iracheta*

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing instrument has been served by E-file Notification or U.S. Mail in accordance with the Federal Rules of Civil Procedure on this the 25<sup>th</sup> day of November, 2024, to the following:

Claudia White  
2346 Ralph Drive  
Eagle Pass, Texas 78852  
*Pro Se Petitioner*



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SCOTT M. TSCHIRHART



# **RESPONDENT'S EXHIBIT A**

Jaime A. Iracheta  
Maverick County Attorney



Luis Gurrola-Villarreal  
Assistant County Attorney

Cecilia A. Mascorro  
Assistant County Attorney

Alexis De La Garza  
Assistant County Attorney  
**Electronically Filed at  
11/25/2024 11:24 AM  
Leopoldo Vielma, District Clerk  
Maverick County, Texas  
By: Sonia Palomo, Deputy**

MAVERICK COUNTY ATTORNEYS OFFICE  
680 Quarry Street  
Eagle Pass, Texas 78852  
Tel. (830) 773-3520 Fax (830) 757-2863  
county.attorney@co.maverick.tx.us

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**Date:** November 18, 2024

**To:** Claudia Crystal White  
**Subject:** Termination of Employment

Dear Ms. White,

This letter serves as formal notification that your employment with the Maverick County Attorney's Office will conclude today, November 18, 2024 at 5:00 PM.

You are required to turn in all county property in your possession immediately. This includes, but is not limited to, any keys, identification badges, electronic devices, or other items issued to you during your employment.

Please note that you are still pending proper arrangements with the Auditor and Treasurer's Office regarding the salary overpayment. It is imperative that you address this matter promptly to avoid any further complications.

Should you have any questions or require further clarification, please do not hesitate to contact the Human Resource Department.

Sincerely,

Jaime Iracheta  
Maverick County Attorney

cc: Auditor's Office  
Treasurer's Office  
Human Resources File

### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Amanda Watkins on behalf of Scott Tschirhart

Bar No. 24013655

amanda@texasmunicipallawyers.com

Envelope ID: 94667832

Filing Code Description: Plea To The Jurisdiction

Filing Description: Defendant's Plea to the Jurisdiction and Motion to

Dismiss Petitioner's Petition for Removal

Status as of 11/25/2024 2:51 PM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Scott MichaelTschirhart		scott@texasmunicipallawyers.com	11/25/2024 11:24:40 AM	SENT
Amanda Watkins		amanda@texasmunicipallawyers.com	11/25/2024 11:24:40 AM	SENT